IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8354 OF 2005

Raghunath Krushnaji Kamthe ...Applicant
Vs.
State of Maharashtra ...Respondent

Shri Rajiv Patil for the Applicant.
Shri K.V. Saste, A.P.P. for the Respondent.

CORAM : S.C. DHARMADHIKARI, J.
DATE : DECEMBER 21, 2005.

P.C.:

1. Heard Shri Patil appearing for the Applicant and Shri Saste, A.P.P. for the State.

2. Repeatedly, this Court has been emphasising that interim protection should not be denied when Anticipatory Bail Application is being considered by the Sessions Court. If the Sessions Court is of the opinion that the Applicant before it is not entitled to Anticipatory Bail, it must pass such orders after hearing parties and perusing materials on the main Application. But when main Applications are kept pending and interim protection is denied, the course adopted is clearly contrary to the mandate provision under section 438 of the Code of Criminal Procedure and particularly applicable in the State of Maharashtra. Criminal Application, therefore, stands allowed. The order passed by the Sessions Judge, Pune

on 20th December, 2005 is set aside. There will be an interim order during the pendency of Criminal Misc. Application No.2448 of 2005 in as much as the Applicant shall not be arrested till this Application is decided by the Sessions Court on merits and in accordance with law. The same to be so decided without being influenced by this order and after hearing both sides, the Trial Court to decide the same expeditiously.

JUDGE